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SUBJECT: GOI OFFICIALS DISCUSS HYDROCARBONS LEGISLATION
WITH U/S JEFFERY

Classified By: CETI Ambassador Charles Ries, reasons 1.4 b,d

¶1. (C) SUMMARY: Iraq officials told Under Secretary Jeffery in a series of meetings held February 24-28 in Baghdad that the time is ripe to move forward on the hydrocarbon legislative package (septels). VP Adil Mahdi agreed to place the item on the agenda for the next Executive Council meeting, suggesting that the leaders could authorize a negotiating team (perhaps the former preparatory committee led by DPM Barhim Salih) to complete talks with the KRG. Other officials expressed skepticism about the possibility of making progress. END SUMMARY.

VP MAHDI: MIGHT AS WELL BE NOW

¶12. (C) VP Adil Mahdi told U/S Jeffery on February 26 that although Iraq needs the hydrocarbon legislation, the issue has taken on a political dimension. The leaders can not decide all the details in the drafts, but the VP has told Thamir Ghadban, the lead GOI negotiator, to keep to certain general principles, namely, that the framework law should respect the federal management of oil, that all oil revenues should pass first through the federal budget, and that the distribution network should be national to give effect to the constitutional provision about oil belonging to all the Iraq people. Also, contracts with international oil companies should be reviewed at the national level, and the management of the resource should be based on free market principles. The Iraq National Oil Company should operate in cooperation with private companies.

¶13. (C) Mahdi said these principles already are in the draft texts, and only minor issues are blocking the law. He said that he had stressed to PM Maliki the need for a political discussion. Mahdi reported that Oil Minister Shahristani had presented his development plan for technical service contracts (septel), but it is not enough as it envisions the re-entry of the private sector to Iraq 3-4 years from now. He explained that Iraq every day is losing market share, and wasting its flared gas. Mahdi added that Iraq needs a more aggressive policy, and USG assistance is helpful.

¶14. (C) Thinking in the oriental way (in his words), Mahdi noted that when the leaders had met last August, a preparatory committee had done much of the advance work. He said that it should be formed again now to tackle the oil law, with some real authority to deal with most issues but also a mandate to return any fundamental disagreements to the leaders. The Prime Minister could name whoever he wants to the negotiating committee, he explained. EMIN asked if Mahdi would help advocate the process. Mahdi agreed to have it put

on the Executive Council agenda the following week, but urged the USG to speak with the leaders (naming President Talabani and Kurdish Region PM Nechirvan Barzani) because having a lone champion of the legislation would be very difficult. He noted that the USG might usefully speak to Iraq's neighbors, who as oil producing countries may have a conflict of interest in helping Iraq reach its export potential, and cited the perception that Iraq's non-production is worth USD 2 billion a day to its neighbors. He agreed that neutral international experts might also contribute positive pressure for enactment of the oil law.

¶15. (C) The VP said all parties need to be reassured: the Sunnis need to hear that the GOI is working on release of their detainees, the Shia that there will be no return to the old days of Saddam, and the Kurds that there will be no other Anfal massacre. Iraqis need to hear good arguments to focus their minds on the future, he added. Fortunately, Mahdi said, people are becoming more practical, and so perhaps this next month will see agreement on the hydrocarbon legislation, a cabinet shuffle, and other laws signed. He added on provincial powers (which he had vetoed) that there is still plenty of time to fix the law since it would not have been implemented until after the October election, and that he would be meeting with the Governors the coming Saturday to determine a way forward. He also shared a study from Ernst & Young on implementing accounting controls to combat oil corruption.

PLANNING MINISTER: "WE MUST BE CONSIDERATE OF THE KURDS"

¶16. (C) In a February 25 meeting with Minister of Planning Ali Baban, U/S Jeffery emphasized the importance of the hydrocarbon framework legislation, explaining the longer it remains unsettled, the greater the losses of political capital, money, and international credibility for the GOI. Baban agreed, while expressing his opinion that any agreement should entitle the GOI to have final say over all contracts and that all oil revenue needs to enter a single fund. Everything else, he said, is open for negotiation. Ali emphasized that the GOI needs to make a special accommodation for the Kurds' "collective memory and sensitivities" in negotiating the legislation.

AL-TAWAFUQ'S POSITION ON HYDROCARBONS LAW

¶17. (C) On February 27, Alaa Makkhi and Akmed Al-Wani, Members of Parliament from the Al-Tawafuq Sunni political bloc, told U/S Jeffery that Al-Tawafuq supports reopening discussions now on the hydrocarbons legislation, but argued the Constitution should be amended first, per Article 142. Explaining that Al-Tawafuq had "almost" reached agreement with other parties on hydrocarbons legislation a year ago, Makkhi said KRG "backtracking" and the COR's failure to amend the Constitution had impeded the legislation. Both Makkhi and Al-Wani praised the "noble goals" of the legislation, but argued that it must provide for universal ownership of oil revenues and be free of ethnic or religious "discrimination." Most importantly, Al-Wani asserted the COR needed to revisit Article 142 before hydrocarbons legislation comes under discussion again, explaining that failure to amend the constitution would lead to "complications" later on. Both Al-Tawafuq representatives said the USG had a "moral" obligation to help the parties revisit Article 142, and they also welcomed USG involvement in building political consensus.

¶18. (C) Makkhi suggested that negotiating the revenue sharing portion could be separated from negotiating the hydrocarbon framework law, despite the argument that combining the two could show that the legislation's benefits would be shared equally and justly. Referring to contentious discussions in the COR over the 2008 budget's provincial revenue sharing

provisions, Makkhi argued that joining the two might create more complications and delay passage.

IRAQI NATIONAL SECURITY ADVISER ON OIL LAW: "NO QUICK FIX"

¶ 9. (S) During a February 28 meeting, Iraqi National Security Adviser Muwafiq Rubaie said the passage of the hydrocarbons legislation is one of his "top priorities," but conceded that a political agreement on the law would not likely happen without getting the Executive Council involved. Rubaie said genuine progress on the law also was unlikely without first gaining agreement on the February 2007 draft's annexes, but noted that such an agreement would pave the way for the constitutional review process. While stating that the USG could provide technical advice on the legislation, he cautioned against the USG assuming an intermediary role in the law's discussions. Without providing details, Rubaie also claimed some officials have a vested interest in not getting the hydrocarbons legislation passed, and should be taken off the file. (NOTE: In a private aside at Rubaie's request, he asked whether Prime Minister Maliki should fire Oil Minister Shahristani and/or Trade Minister Sudani, and expressed concern over GOI corruption. End note).

COMMENT

¶ 10. (C) Post shares the view that political conditions are as good as they may ever be for the GOI to take up negotiations on the hydrocarbon legislation, to put the matter before the Council of Representatives when it reconvenes later this month, but it will be hard to keep the GOI focused on putting in place a process that will lead to a real agreement.

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